

FILED IN THE
U.S. DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

Mar 24, 2022

SEAN F. McAVOY, CLERK

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

UNITED STATES OF AMERICA,

Plaintiff,

v.

ROMAN BERUMEN PEREZ,

Defendant.

No. 1:21-CR-02009-SAB-2

ORDER ACCEPTING PLEA AND
SETTING SENTENCING SCHEDULE

On March 23, 2022, Defendant appeared before the Court and entered a plea of guilty to Count 4 of the Indictment filed on February 9, 2021, charging him with Distribution of 5 Grams or More of Actual (Pure) Methamphetamine, in violation of 21 U.S.C. § 841(a)(1), (b)(1)(B)(viii). Defendant was represented by Richard Smith. The Government was represented by Assistant United States Attorney Michael Murphy.

The Court finds that Defendant is fully competent and aware of the nature of the charges and consequences of the plea, that the plea of guilty is knowing and voluntary, is not induced by fear, coercion, or ignorance, and is supported by an independent basis in fact establishing each of the essential elements of the crime. Therefore, Defendant's plea of guilty is accepted. However, the Court will decide whether to accept the Rule 11(c)(1)(C) plea agreement at the time of sentencing.

Accordingly, **IT IS ORDERED:**

1. All pending pretrial motions, if any, are **DENIED AS MOOT**.
2. All previously set court dates, including the trial date, are **STRICKEN**.
3. Sentencing shall be held **June 22, 2022 at 11:00 a.m., in Yakima,**

ORDER ACCEPTING PLEA AND SETTING SENTENCING SCHEDULE ~ 1

1 Washington. Pending sentencing Defendant shall remain on pretrial release subject to the
2 conditions previously set. A motion to continue must be filed at least **10 days** prior to the
3 scheduled sentencing hearing.

4 4. The United States Probation Officer shall prepare a timely presentence
5 investigation report which will comply with the following schedule:

6 (a) Not less than **35 days prior to the date set for sentencing**, the Probation
7 Officer shall disclose the presentence investigation report to counsel for Defendant and the
8 Government. Within **14 days thereafter**, counsel shall communicate in writing to the
9 probation office any objections they may have as to any factual errors or omissions;
10 sentencing classifications; sentencing guideline ranges; and policy statements contained in
11 or omitted from the report. Such communication may be oral initially, but shall
12 immediately be confirmed in writing to the Probation Officer and opposing counsel.

13 Objections shall be numbered and identify the paragraph(s) to which the
14 objection applies. Objections shall address the PSR in sequential order, beginning with the
15 lowest numbered paragraph.

16 (b) After receiving counsel's objections, the Probation Officer shall conduct
17 any further investigation and make any revisions to the presentence report that may be
18 necessary. The Probation Officer may require counsel for both parties to meet with the
19 officer to discuss unresolved factual and legal issues and counsel shall make themselves
20 available for that purpose.

21 (c) At least **10 days prior to the date of the sentencing hearing**, the
22 Probation Officer shall submit the presentence report to the sentencing judge. The report
23 shall be accompanied by an addendum setting forth any objections counsel may have
24 made, including those that have not been resolved, together with the officer's comments
25 and recommendations thereon. The Probation Officer shall certify that the contents of the
26 report, other than sentencing recommendations, including any revisions or addenda, have
27 been disclosed to counsel for the Defendant and the Government, and that the addendum
28 fairly states any remaining objections.

1 (d) Except with regard to any written objection made under sub-division (a),
2 the report of the presentence investigation and computations shall be accepted by the Court
3 as accurate. Upon a timely objection by the Defendant, the Government bears the burden
4 of proof on any fact that is necessary to establish the base offense level. The Court,
5 however, for good cause shown, may allow a new objection to be raised at any time before
6 the imposition of sentence. In resolving disputed issues of fact, the Court may consider any
7 reliable information presented by the Probation Officer, the Defendant, or the Government.

8 (e) Nothing in this Order requires the disclosure of any portions of the PSR
9 that are not disclosable under Rule 32 of the Federal Rules of Criminal Procedure.

10 (f) The presentence report shall be deemed to have been disclosed: (1) when a
11 copy of the report is physically delivered; or (2) one day after the report's availability for
12 inspection is orally communicated; or (3) three days after a copy of the report or notice of
13 its availability is mailed to counsel, whichever date is earlier.

14 (g) **Any memorandum or motion** regarding sentencing must be filed and
15 served at least **15 days prior to the date set for sentencing**. The opposing party shall file
16 and serve a response, if any, **within 7 days** of receipt of the motion.

17 (h) If it is determined that the Defendant may qualify for the safety valve
18 (5C1.2), the parties must schedule a meeting to conduct a safety valve interview to
19 determine if the Defendant has met the requirements of U.S.S.G. § 5C1.2(a)(5) no later
20 than 10 days prior to the sentencing hearing. Counsel may request a continuance of the
21 sentencing hearing if the ends of justice so require.

22 5. In addition to the sentencing memorandum, **at least 15 days prior to the date**
23 **of the sentencing**, the parties shall file and serve briefing to the Court indicating why the
24 proposed sentence in the plea agreement is appropriate and should be accepted by the
25 Court.

26 //

27 //

28 //

1 6. By and through this Order, the District Court Executive is authorized to accept
2 Defendant's payment in the amount of \$100 per count, for a total of \$100, toward Special
3 Penalty Assessments.

4 The District Court Executive is directed to file this Order and provide copies to
5 counsel **AND TO** the United States Probation Office.

6 **DATED** this 24th day of March 2022.



11 *Stanley A. Bastian*

12 Stanley A. Bastian
13 Chief United States District Judge
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28